

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON EDUCATION AND CULTURAL RESOURCES

Call to Order: By **CHAIRMAN BILL GLASER**, on January 12, 2001 at 3:00 P.M., in Room 405 Capitol.

ROLL CALL

Members Present:

Sen. Bill Glaser, Chairman (R)
Sen. Dale Berry (R)
Sen. John C. Bohlinger (R)
Sen. Edward Butcher (R)
Sen. Jon Ellingson (D)
Sen. Jim Elliott (D)
Sen. Alvin Ellis Jr. (R)
Sen. Sam Kitzenberg (R)
Sen. Don Ryan (D)
Sen. Debbie Shea (D)

Members Excused: Sen. Jack Wells, Vice Chairman (R)
Sen. John Cobb (R)
Sen. Mike Sprague (R)
Sen. Mignon Waterman (D)

Members Absent: None.

Staff Present: Linda Ashworth, Committee Secretary
Eddy McClure, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 35, 1/8/2001; SB 36,
1/8/2001
Executive Action: None

HEARING ON SB 36

Sponsor: SEN. AL BISHOP, SD 9, BILLINGS

Proponents: None

Opponents: **Inga Nelson, Montana Education Association -
Montana Federation of Teachers
Bob Vogel, Montana School Board Association
Casey Halcro**

Opening Statement by Sponsor:

SEN. AL BISHOP, SD 9, BILLINGS, introduced SB 36. He remarked that the bill is on the first sheet, lines 13-17. It is the most simple bill. It provides that teachers and professional personnel employed by the school district conform to certain standards of attire during their regular scheduled school days. For example a man must wear a suit, dress shirt, tie, dress slacks, dress sport coat and tie or dress slacks, dress shirt and tie. The woman must wear either a dress, a suit, pantsuit, a skirt and a blouse or pants and blouse. Men and women must wear dress shoes. No athletic shoes, slippers, thongs, work boots or other similar foot apparel would be appropriate.

SEN. BISHOP also stated that change is sweeping across the country in the education field and changes have to be made. Just throwing money at the system is not the answer. For instance, in Utah they spend about twenty eight hundred dollars (\$2800.00) per student, least spent per student in any of the fifty states, yet their students always place in the top four or five in the SAT tests. We know that money alone is not the answer.

He stated that he is trying to introduce something into the system that is good for the students but doesn't cost anything. There is a ton of material on this subject. He cited a case in Fallon, Nevada last year where the school board adopted a dress code for teachers "In order to provide appropriate role models for students".

SEN. BISHOP informed the committee that this is his bill and that he is not representing any group. He felt that the issue needs to be addressed. **SEN. BISHOP** visited one of the top educators in Billings who had visited one of the high schools in Billings and found that he could not tell some of the teachers from the students. They didn't look professional.

He feels that if you put a tie on someone they feel good about themselves and people feel better about working with someone like that. We have to get the students ready for the real world. We have to get teachers to realize the magnitude with what they are doing. They are dealing with impressionable students that can be changed and molded. He stated that this is a very serious undertaking for teachers.

SEN BISHOP pointed out that the committee is in professional attire and that he did not think that it was too much to ask a teacher to show up looking professional in the classroom

{Tape : 1; Side : A; Approx. Time Counter : 0 - 10}

Proponents' Testimony: None

Opponents' Testimony:

Inga Nelson, MEA/MFT, stated that **MEA/MFT president, Eric Feaver** was unable to attend the hearing and requested that she pass on his apologies to the committee and **SEN. BISHOP**. On behalf of the teachers and classified school employees that MEA/MFT represent, MEA/MFT opposes SB 36. MEA/MFT does not feel that it is the role of the legislature to require a dress code for teachers. This issue should be left up to the local school districts and to the teachers in these local districts. This mandate would infringe on local control as well as school employee's rights to bargain on this issue. She urged the committee to oppose SB 36.

Bob Vogel, Montana School Boards Association, stated that **MSBA** appreciated **SEN. BISHOP'S** bill and what he is trying to do but do not think it is appropriate that the state dictate this sort of policy and in fact many school districts in the state of Montana do have policies that address the staff dress code. He recited from an example of a staff handbook citing some provisions that most school districts already have in their handbooks, if not in their policy manuals. It says, "All staff are expected to be neat, clean and/or appropriately dressed for work that is in good taste and suitable for the job at hand. Teaching as a professional demands setting a good example for students in every possible way. As adults and professionals, teachers are expected to be guided in their grooming habits by what is most generally acceptable in the business and professional world."

They believe that it's most appropriate that local school boards and school districts deal with it as a local issue.

Mr. Vogel also stated that he was asked by **Loran Frazier, School Administrators of Montana**, who was preoccupied with the House Education Committee, to say that he would concur with the statement made by **MSBA**.

Casey Halcro came before the committee as a future teacher in opposition to SB 36. She responded to several comments made by **SEN. BISHOP**. In response to the comment that teachers should be appropriate role models for students, she felt that people should be looked to, not for what they wear but for what they do.

Putting on a tie or type of clothing a person wears should be at the discretion of the wearer. Students going into the workplace are not influenced by what teachers wear. Clothes do not make the person. She felt that this is discrimination and discrimination is against the law. She felt that if someone is wearing something inappropriate in school, then the person to handle the situation is the administrator.

{Tape : 1; Side : A; Approx. Time Counter : 10 - 15}

Informational Testimony: None

Questions from Committee Members and Responses:

SEN. DEBBIE SHEA agreed with **SEN. BISHOP** that teachers need to be and look professional but feels that this is the job of the administrator. She asked for further information on what shop teachers, P.E. teachers, and teachers on a field trip would do. **SEN BISHOP** responded that the issue was addressed on line twenty (20) and twenty-one (21) of the bill, where it is stated that the exceptions to the standards may be allowed for special events or circumstances as approved by the superintendent.

SEN. JOHN BOLLINGER asked **SEN. BISHOP** if School District #2 in Billings has adopted a policy of dress codes for faculty members. **SEN BISHOP** answered that they have not but he has talked to several principals and asked them if they can enforce a dress code. They said they couldn't. All they could do is recommend. According to **SEN BISHOP** they would like to have a dress code for teachers. **SEN BOLLINGER** followed up asking **SEN. BISHOP** if the principals he had talked to, that expressed an interest in adopting dress codes, could give him a reason as to why they could not impose a dress code. **SEN BISHOP** stated that the feeling is that they can not impose a dress code under existing law. Otherwise, he felt that many districts would adopt a dress code. He was not so sure that this is true. He stated that he had read the law and understands it pretty well and thinks they could impose a dress code but they are not doing it. He feels that they are just not doing the job.

SEN. EDWARD BUTCHER asked **SEN. BISHOP** whether he had seen any studies pertaining to the productivity in the workplace improving when people are in business attire. **SEN BISHOP** stated that although there is an abundance of material out there on teacher dress codes, he picked out the example given earlier on Fallon, Nevada because it was closest to home. **SEN BUTCHER** wondered whether there might be another issue here. Is there an option here to simply empower local school boards? **SEN BISHOP** responded

that this is an option to look at but called attention to how the bill was drafted.

SEN. ALVIN ELLIS asked for clarification as to whether or not school boards were empowered to impose a dress code at this time. **Mr. Vogel** stated that he believes that school districts could legally adopt a policy on this issue with significant discussion and debate from the staff in developing that policy. In fact, we have the ability to adopt policy that would cover, not only student dress, but staff dress. Referring to the section that he read earlier in his testimony from a district staff handbook, he explained that many districts do have a policy like that. It could be more detailed but when a district gets into a lot of details it would have to make sure that those provisions are legally defensible. He cautioned that this would be a challenge, as well, to be too specific in a policy, as it's written. **SEN. ELLIS** suggested that as specific as this statute is, it would be subject to lawsuits that a district could very easily lose. **Mr. Vogel** assured the Committee that if a board adopted a policy this specific, certainly, the first step would be a grievance procedure within the district and that would go all the way to the superintendent and depending on the result there may go beyond that. **SEN. ELLIS** questioned whether there were no standards at all, since, the statute seems to more subjective than objective. **Mr. Vogel** felt that the standard is set by the local community and board and the school district. Administrators looking at that could have the ability to go anywhere from gently reminding a staff member of the existence of that language or telling them that they would not comply with the spirit of that language.

SEN. DALE BERRY asked if there was an idea of how many schools, now, have some kind of dress code for teachers. **Mr. Vogel** stated that he did not have an exact number but did state that **MSBA** does do policy services and consults with a number of school districts across the state and strongly suggest that they do include, either in policy or in their district handbooks, some mention of this area. **SEN. BERRY** followed up with a question, referring to Mr. Vogel's experience serving on a school board, as to whether there was a policy that was enforced and did it work? **Mr. Vogel** said that he believed that there was a policy in the district handbook and not in the policy manual. The language was general, encouraging professionals to dress in professional manner and set an example for students and everyone else in the district.

SEN. BERRY asked if it was effective. Mr. Vogel said he believed it was effective and stated that as a school board member for

nine years he had no complaints about the appearance of staff in the district.

{Tape : 1; Side : A; Approx. Time Counter : 16 - 31}

Closing by Sponsor:

SEN. BISHOP closed on SB 36. He responded to previous testimony regarding the fact that a person should not be discriminated against for what he or she wears. He agreed with that statement but said that the fact is that a person is judged by what they wear. Administrators should be enforcing a dress code policy but they are not. This bill is to make school districts aware that we are looking at what they are doing.

{Tape : 1; Side : A; Approx. Time Counter : 31 - 32; Comments : Closing statement continues on side B.}

{Tape : 1; Side : B; Approx. Time Counter : 0 - 1}

HEARING ON SB 35

Sponsor: SEN. AL BISHOP, SD 9, Billings

Proponents: SEN. JOHN BOHLINGER, SD 7, Billings
SEN. EDWARD BUTCHER, SD 27, Winifred

Opponents: Scott Crichton, American Civil Liberties Union
Casey Halcro
Bob Vogel, Montana School Boards Association
Inga Nelson, Montana Education Association/Montana Federation of Teachers

Opening Statement by Sponsor:

SEN. BISHOP introduced SB 35. He stated that this is a companion bill to SB 36. If the teachers are dressed up the students would have a standard to go by. This bill is easy to understand. Everything in it is on page 3, lines 16-21. It says that the trustees of each district shall adopt and administer a district policy that requires pupils to wear school uniforms. The policy must describe the uniform, designate the days on which the uniform must be worn, and include a provision that allows the trustees to seek financial assistance in obtaining a school uniform for any economically disadvantaged students. He stated that there is much material on this topic. **SEN. BISHOP** presented

a handout to the committee entitled, "A Manual on School Uniforms", **EXHIBIT (eds09a01)**. Thirty seven states allow school uniform policies. Many large public school systems have enacted uniform policies. He referred to an article, dated May 2001, that Philadelphia students (217,000 students) are all in uniforms. It is a coming thing. **EXHIBIT (eds09a02)**

SEN. BISHOP talked with Darrell Rud, Principal of Garfield School in the Billings School District. The Garfield students are in uniforms. They opted to voluntarily adopt a uniform policy. Mr. Rud said that the policy is working well. They wear polo shirts and either khaki or navy pants. The cost of those are seven dollars and fifty cents (\$7.50) for the shirt and about twelve dollars (\$12.00) for the trousers. The total cost to the parent is about twenty dollars (\$20.00). Garfield School accomplished this by using grants and private donations. The first uniforms were given to each student for free.

The bill provides that any child that can not afford a uniform will receive assistance. Another nice thing about uniforms is school pride. In talking to approximately 100 parents, all but two liked the uniform idea for the reason of less pay for school clothing. Also, it would eliminate fighting with the child over clothing. School uniforms are only worn during school hours so children can maintain their individuality with clothes worn after school.

SEN. BISHOP referred to an article about the schools in Long Beach, California where the students are required to wear uniforms. Wherever uniforms are worn, fights, sex offenses and weapons offenses have decreased. The policy prevents gang members from wearing gang colors. It instills the students with discipline. It helps the students concentrate on their work, helps school officials recognize intruders in the school, promotes attendance, and instills a school spirit.

{Tape : 1; Side : B; Approx. Time Counter : 2 - 10}

Proponents' Testimony:

CHAIRMAN GLASER presented the Committee with a letter from **Luke Keating, Billings, EXHIBIT (eds09a03)** and a letter from **Al Jenkins, Billings, EXHIBIT (eds09a04)**.

SEN. JOHN BOHLINGER, shared with the committee his experience with uniforms. All six of his children attended Catholic Schools in Billings. At that period of time Catholic Schools in Billings had a dress code that required uniforms. They were very affordable and there was a policy to provide uniforms for those

children whose parents could not afford them. **SEN. BOLLINGER** stated that he saw how this worked, first hand, and is glad that **SEN. BISHOP** is bringing this forward with the same sort of provisions. During the period of time when his children were in school, when uniforms were the fashion of dress, there were very few discipline problems. He feels that part of the lack of discipline problems could be attributed to a dress code that the school had adopted. Students had a sense of discipline and pride in their school.

He also stated that Garfield School in Billings and is on the south side of Billings which is the disadvantaged side of Billings. This effort to establish positive peer pressure and promote better, behavior through uniforms, was adopted by these people, and they are wearing uniforms with a sense of pride, a sense of dignity and it is working in a positive fashion at Garfield School.

SEN. EDWARD BUTCHER stated that he supported SB 35. His brother and sister-law, who are teachers in Fresno, California, teach in a public school that has instituted school uniforms. The gang violence was almost eliminated and the constant harassment and fighting among the students was virtually eliminated. The academics actively improved. The teachers wore the same uniforms as the students. The interesting thing is that a lawsuit was threatened and the school did drop the dress code. The school dropped the policy to avoid litigation yet most of the students continue to wear the uniforms. The few students that have chosen to wear their own clothing stick out which has put incredible peer pressure on these students to move back into the conformity of the uniforms.

{Tape : 1; Side : B; Approx. Time Counter : 10 - 18}

Opponents' Testimony:

Scott Crichton, Executive Director of the ACLU, stated that Montana is not California. Our society, schools and problems are different. We can anticipate that we may have the same problems. California does not have everyone in uniforms. Our Montana Constitution would preclude the enactment of SB 35. Article 2, section 7 refers to free speech for a citizens and Article 2, Section 15 talks about the rights of minors. Minors have all the rights that adults have and then some. He feels the bill is unnecessary and inappropriate.

Mr. Crichton related a visit to Pine Hills where they were proud that they had just instituted a dress code policy which was polo

shirts and khaki pants. The students have been deprived of their liberty. They have demonstrated that nothing else is working for them. They have pushed the limits too often, too far and have now found themselves reduced to having no individuality, all part of the program. He hopes that it is not anyone's intent to turn our schools into reformatories or to treat our children as if they are future felons. He would rather see that what we are doing as a course of policy is treating kids with respect and encouraging their individuality. **Mr. Crichton** stated that he feels the right of free expression extends to things that are symbolic such as clothes.

He does not feel it will be cheaper or simpler for families. It should not be cost that is driving the bill. This isn't California, we don't have those types of problems in this state and he thinks these restrictions are really restrictions on individuality and liberties. He asked that we please don't turn our schools into glorified reform schools. We need to do our best to provide kids opportunities to express their individuality and to figure out who they are.

There have been challenges to policies in other states. There have to be "opt outs" for people that can't afford it or who don't want to participate. He encouraged the Committee to not pass SB 35.

Casey Halcro stated that she is opposed to SB 35. She questioned the reported cost of buying a uniform for twenty dollars (\$20.00) or less. She stated that parents should be allowed to make the choice on how much money they want to spend on their child's clothing and also that students would still want to wear the designer clothing after school and on weekends, thus increasing the cost to parents.

Ms. Halcro felt that feeling good about school does not depend on what one wears and school pride did not depend on uniforms. She responded to the fact that intruders in a school would be easily spotted if they were out of uniform. The school she attended in high school now has a policy that says all student must have an I.D. visible to make it easier for a staff member or student to identify an intruder.

Certain things were not allowed at **Ms. Halcro's** high school. They were not allowed to wear certain tee-shirts such as shirts that showed beer, drug or alcohol logos. Another question, when talking about uniforms, what about accessories. How many details does the committee wish to address?

Bob Vogel, Montana School Boards Association, opposed SB 35 stating it is a matter of local control. It should not be something mandated by the state for local school districts and trustees. We spend a lot of time dealing with dress codes and dress policies in our school districts now. As tough as those discussions are he believes that that is where those discussions should take place and it should not be from a mandate from the state.

Mr. Vogel also stated, for the record, that **Loran Frazier of School Administrators of Montana**, asked that he convey **Mr. Frazier's** opposition to the bill as well.

Inga Nelson, MEA/MFT, stated that MEA/MFT opposes SB 35. It restricts local control. Currently, if a school district feels that uniforms would address a problem that they are having there is nothing prohibiting them from adopting uniform policy. Why should we require all schools to do this? This bill inadequately addresses the issue of assisting students who do not have the financial resources to purchase uniforms. It is unfair and impossible to really mandate uniforms without providing funding for financial assistance. However, if the Legislature did provide funding it could be spent better in other places. This bill takes away local control and is unfair and not an appropriate response to a perceived problem.

{Tape : 1; Side : B; Approx. Time Counter : 18 - 31}

{Tape : 2; Side : A; Approx. Time Counter : 0 - 5; Comments : Opponents continue on Tape 2, Side A}

Informational Testimony: None

Questions from Committee Members and Responses:

SEN. JIM ELLIOT questioned **SEN BISHOP** regarding the reason that state government needs to preclude the rights of local governments. **SEN. BISHOP** responded that we dictate every day to the local people. Every law we pass affects somebody out there. The fact is that the local people are not doing the job that they should be doing with regards to the schools. We don't have much money to throw at the schools so we need to come up some innovative things that will help the kids without costing a bunch of money. Local trustees would be allowed to choose the uniform. They would have a lot of latitude. They can designate days which the uniform can be worn. Every district could have a different type of uniform.

SEN. ELLIOT wondered if one would assume that every school district could determine whether their school had a problem instead of the Legislature. **SEN. BISHOP** stated that he would like to think that was the case that the trustees would take charge and do some of the things they should be doing but they are not. He feels this is one thing we can do to help the kids.

SEN. JOHN BOHLINGER asked if it wasn't common knowledge that we do have problems in our town. **Mr. Crichton** agreed that there are problems in the state. **SEN. BOHLINGER** inquired as to whether there might be a constitutional argument stating that this bill is unconstitutional. If the Legislature adopts a standard of dress, for students in public school, wouldn't that be a way to provide a safeguard that this privilege of responsibility might be met? **Mr. Crichton** stated that he does not agree that the best way to see that we don't abuse our rights is to deny our rights.

SEN. BOHLINGER rephrased the question in regards to the constitution's speaking to responsibility. **Mr. Crichton** thought that if something is viewed as inappropriate it is currently dealt with in the schools. He stated that what is inappropriate is highly subjective, changing from school system to school system. He referred to the rights of children. They have the same rights as adults unless we can show a compelling state interest that they should have less rights.

SEN. ALVIN ELLIS relayed an anecdote referring to a school district in New Mexico and asked **Mr. Crichton** his thoughts on the matter. **Mr. Crichton** stated that he was not familiar with the specifics of the case and could not comment on the matter. He stated that the ACLU has gone to bat on behalf of kids relating to dress code as well as other issues. The guarantees offered by the Constitution extend to everybody, not just to majorities.

SEN. JON ELLINGSON wondered if a school board shows a compelling interest, then a uniform policy might be appropriate, in a specific circumstance. **Mr. Crichton** agreed and stated that if this were to take place that it would still be critical that there be an element for opting out, that there be an element for subsidization and those things would be discussed. **SEN. ELLINGSON** questioned **SEN. BISHOP** about the issue of local control and asked if he would be responsive to an amendment that directed local school boards to consider the adoption, if they felt it was appropriate under their local circumstances. **SEN. BISHOP** responded that he would agree to an amendment if that would get the bill out of committee.

SEN. DEBBIE SHEA asked **Mr. Crichton** if he would agree with the statement that sometimes some individuality can be very offensive to others and where that sense of rights comes in.

SEN. SHEA inquired of **SEN. BISHOP** if he would be amenable to **SEN. ELLINGSON'S** suggestion, either to make the policy clearer, that they have the latitude to make that policy, and some kind of encouragement for schools to go forward with this. **SEN. BISHOP** responded that he would be amenable to this suggestion. He stated that he would be happy if, somehow, we could impress on the folks out there that there is a problem.

CHAIRMAN WILLIAM "BILL" GLASER questioned whether it was clear that school boards have the ability, for compelling reasons, to restrict how people dress, whether they are employees or students. **Mr. Vogel** stated that he was not an attorney so could not advise on a legal opinion but does believe that there is compelling reasons for addressing a situation and, in fact, school trustees currently have fairly wide latitude to try to address that question. He could not answer directly whether a school board would have the ability, without some sort action by the Legislature, if they were to try to impose school uniforms.

CHAIRMAN GLASER asked **Mr. Vogel** if he would talk to his legal staff and get their feeling as to whether schools have the opportunity to do this, if they wish, which may mean that this bill would be changed to be an enabling bill. This would enable school districts to do this, if they wish, if in fact there is a problem. **Mr. Vogel** stated that he would be glad to consult legal council.

{Tape : 2; Side : A; Approx. Time Counter : 5 - 31}

Closing by Sponsor:

SEN. BISHOP closed on SB 35. He appreciated comments, both for and against the bill. Referring to **Mr. Crichton's** comment that, "Montana is not California", **SEN. BISHOP** agreed that we are not but we are California on a smaller scale. The percentages would work out the same. We have everything in our schools that California has in theirs but not on as grand a scale. He believes that when students walk into a school they do not have all the rights that we other folks do. Many restrictions can be put on children at school that we probably couldn't do to adults. He pointed out that the members of the committee are all in uniforms. This bill is important for the kids. We want to do what is best for kids and this will help the schools.

{Tape : 2; Side : B; Approx. Time Counter : 0 - 6}

ADJOURNMENT

Adjournment: 4:45 P.M.

SEN. BILL GLASER, Chairman

LINDA ASHWORTH, Secretary

BG/LA

EXHIBIT (eds09aad)